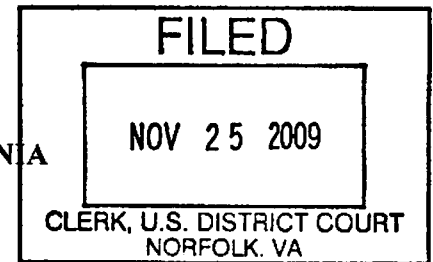


**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA**
Norfolk Division



NEGASH MALEDE #13051-007,

Petitioner,

v.

ACTION NO. 2:09cv305

PATRICIA STANSBERRY, Warden,

Respondent.

**UNITED STATES MAGISTRATE JUDGE'S
REPORT AND RECOMMENDATION**

This matter was initiated by petition for writ of habeas corpus under 28 U.S.C. § 2241. The matter was referred to the undersigned United States Magistrate Judge pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and (C) and Rule 72 of the Rules of the United States District Court for the Eastern District of Virginia.

Petitioner Negash Malede("Malede") was convicted in the District of Columbia Superior Court of: stalking; threatening to injure a person; assault with intent to kill while armed; possession of a firearm during a crime of violence; and carrying a pistol without a license. He was sentenced to a term of fourteen (14) years, four (4) months to forty-three (43) years.

Malede, presently in the custody of the Federal Bureau of Prisons at the Federal Correctional Complex ("FCC") in Petersburg, Virginia, filed this petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 on July 2, 2009, seeking a rehearing by the District of Columbia Parole Commission using parole guidelines applicable to the time Malede entered prison. [Doc. No. 1]. The respondent filed a Motion for Summary Judgment on October 5, 2009. [Doc. No. 6]. On

October 26, 2009, however, Malede filed a Motion to Voluntarily Dismiss his petition. [Doc. No. 9]. In his motion, Malede stated that the Parole Commission granted his request for a rehearing, and has scheduled the same in, or about, the week of November 30, 2009. The respondent did not file a motion in opposition to Malede's motion to dismiss. Because the Parole Commission resolved the only issue addressed in Malede's petition, the Court finds the petition for a writ of habeas corpus, as well as the respondent's Motion for Summary Judgment moot.

For the foregoing reasons the Court recommends that Malede's Motion to Voluntarily Dismiss be GRANTED and his petition for writ of habeas corpus be DISMISSED, with prejudice. Furthermore, the Court recommends the respondent's Motion for Summary Judgment be DISMISSED as moot. If the petitioner is not awarded a hearing by December 4, 2009, he may re-file his § 2241 petition in this court.

REVIEW PROCEDURES

By copy of this Report and Recommendation, the parties are notified that pursuant to 28 U.S.C. § 636(b)(1)(C):

1. Any party may serve upon the other party and file with the Clerk written objections to the foregoing findings and recommendations within ten (10) days from the date of mailing of this report to the objecting party, see 28 U.S.C. § 636(b)(1)(C) and Federal Rule of Civil Procedure 72(b), computed pursuant to Rule 6(a) of the Federal Rules of Civil Procedure, plus three (3) days permitted by Rule 6(e) of said rules. A party may respond to another party's objections within ten (10) days after being served with a copy thereof.

2. A district judge shall make a de novo determination of those portions of this report or specified findings or recommendations to which objection is made.

The parties are further notified that failure to file timely objections to the findings and recommendations set forth above will result in waiver of right to appeal from a judgment of this court based on such findings and recommendations. Thomas v. Arn, 474 U.S. 140 (1985); Carr v. Hutto, 737 F.2d 433 (4th Cir. 1984); United States v. Schronce, 727 F.2d 91 (4th Cir. 1984).

_____/s/
Tommy E. Miller
United States Magistrate Judge

Norfolk, Virginia
November 25, 2009

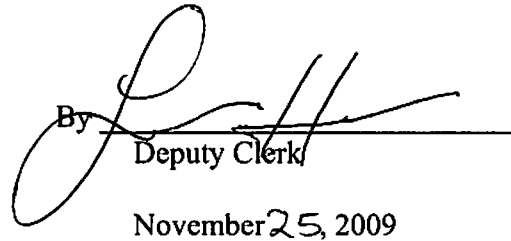
CLERK'S MAILING CERTIFICATE

A copy of the foregoing Report and Recommendation was mailed this date to the following:

Negash Malede, # 13051-007
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Suite 8000
Norfolk, VA 23510

Fernando Galindo, Clerk

By  Deputy Clerk
November 25, 2009